

U. S. ARMY ROBERT MORRIS ACQUISITION CENTER (RMAC)

STANDING OPERATING PROCEDURE (SOP) NO. 715-1

DATE: October 2000

PART 1 - REGULATION SYSTEM

1.1 General: This SOP establishes procedures and provides links to additional information and will be used by all members of the Center and the Army Test and Evaluation Command (ATEC) Contracting Activity for which the Principal Assistant Responsible for Contracting (PARC) has responsibility.

Coverage will include procedures that are required by regulation to be established by the Head of the Contracting Activity (HCA); procedures that implement policies (such as those Office of the Secretary of Defense or Department of the Army policies issued by memoranda) that are not in the regulations; and, those procedures necessary to ensure that certain practices are consistent throughout the Center. The numbering of this SOP will, where possible, correspond to the numbering of the Federal Acquisition Regulation (FAR).

1.2 Maintenance and Supplementation of SOP: Maintenance of this SOP is the responsibility of the Business Management Division. Changes to this SOP will be indicated with a revision date and a vertical line in the right margin where the change(s) occurs. Contracting offices may supplement the SOP for local use when appropriate. Supplements may not be inconsistent with the Center SOP, should be kept to the minimum necessary, and a copy furnished the Business Management Division.

1.3 Nonstandard Clauses: Nonstandard clauses that will be utilized on a repetitive basis and will not have a significant cost or administrative impact on contractors or offerors or will not have a significant effect outside the internal operating procedures of the Center, will be reviewed by the Chief of the Contracting Office, local experts/attorney and forwarded to the Business Management Division and approved by the PARC. Clauses falling under these conditions that are to be used on a one-time basis will be approved by the contracting officer and the contract file documented. The format for nonstandard review/approval will be used.

Clauses requiring higher level approval will be forwarded through the Business Management Division accompanied by a copy of any justifications/reviews performed.

Clauses approved for use on a repetitive basis will be identified by title, source [i.e., RMAC (previously AMCAC), WSMR, APG], assigned clause number and date that shall appear preceding its content. The Business Management Division will be responsible for preparing Center and APG clauses and assigning numbers for those clauses.

1.6 Career Development, Contracting Authority, and Responsibilities:

1.601 PARC Authority: The HCA has delegated to the PARC all HCA authority except that which is specifically stated to be nondelegable. Actions requiring PARC execution shall be forwarded by written request from the Chief of the Contracting Office and will contain a copy of all reviews performed at the Chief of the Contracting Office level and the Contracting Officer's responses thereto. When a procurement analyst is not available to perform a required review, a contracting officer, as an independent reviewer not involved with the action, may perform the review.

Dollar thresholds established by this SOP include options.

1.602 Solicitation Review

<u>Threshold</u>	<u>Reviews</u>	<u>Approval</u>
\$500K but not exceeding \$1M	-	KO
\$1M but not exceeding \$10M	Legal	KO
\$10M but not exceeding \$100M	Legal, KO, PA	COCO
\$100M and over	Legal, KO, PA, COCO	PARC

1.602-1(c)(ii) Legal Participation: Legal reviews will be conducted on proposed contract actions over \$1M except for administrative modifications. Legal reviews under \$1M may be requested by the contracting officer whenever determined necessary.

Other actions normally requiring legal review may include: settlements, ratifications, protests, novation and change-of-name agreements, protests, ratifications, J&As, local clauses and provisions, acquisition plans, congressionals, determinations and findings, determinations of nonresponsiveness, disputed claims, late bid determinations, mistakes in bids/proposals, final decisions, and proposed deviations and novel/experimental contracting approaches.

In the event that legal counsel is not available at the contracting division, the contracting officer will consult with counsel at another office within the Center.

1.602-2 Contracting Officer's Representatives (CORs): The Center COR Handbook provides guidance relating to qualifications, training, appointments and nomination format.

1.602-2-91 Ordering Officers:

In accordance with AFARS 1.603-1(2) - http://acqnet.sarda.army.mil/library/afar/afar1.htm#sub1_6031 - authority to appoint Ordering Officers is delegated to Chiefs of Contracting Offices with power to redelegate to a warranted contracting officer.

1.602-3 Ratification of Unauthorized Commitments: Authority has been delegated as follows:

- Chief of the Contracting Office - \$ 10,000 or less
- PARC - \$100,000 or less
- HCA - Over \$100,000

PARC approval: COCO will submit a memo to the PARC requesting approval accompanied by the KO's determinations and the legal review performed.

HCA approval: COCO will submit a memo to the Business Management Division for review which shall contain the KO's determination and the legal review performed. The PARC will forward the request for approval to the HCA.

1.603 Contracting Officers (KOs): Chiefs of Contracting Offices shall submit requests for KO appointments, changes and terminations to the PARC secretary, who will coordinate the requests with the Business Management Division, as necessary. Nomination for appointment shall contain sufficient information to document that the individual meets the requirements of FAR, DFARS and AFARS regarding qualifications and shall include a completed USA Contracting Officer Warrant Worksheet and a brief explanation of why the warrant is needed. Upon issuance of the warrant, the PARC secretary will forward the Worksheet to the appointee's servicing civilian personnel office (SFRD memo, 29 Mar 93, established the worksheet which requires a copy be sent to CPO).

Chiefs of Contracting Offices shall maintain a list of contracting officers which include both their execution and award approval authority. The list shall be furnished the Business Management Division initially and when changes occur. Chiefs should also make this information available to the members of their offices.

1.690-1 Management Control Evaluation Checklist: Members of the Center will utilize Appendix DD of the AFARS, as modified by the Business Management Division. If contracting offices determine additional items should be addressed on the checklist, their recommendation shall be forwarded to the Business Management Division. Any additional checklists used/developed by contracting offices shall be furnished the Business Management Division. Chiefs of Contracting Offices shall provide yearly input into the Commander's Annual Statement of Assurance to include any material weaknesses reported during the fiscal year.

Any proposed material weakness shall be immediately brought to the attention of the Director through the Business Management Division no matter by what source identified. Recommended corrective action shall be included and the Director will make a determination as to whether the weakness is reportable.

All performance agreements of managers with management control responsibility shall include an explicit statement on that responsibility. See AR 11-2 at <http://www.asafm.army.mil/pubs/ar11-2/toc.htm> and AMC Supplement 1.

For additional information regarding the management control program, see the Management Control Administrator's Handbook at <http://www.asafm.army.mil/pubs/mgtcont/082396hb.doc>.

1.690-2 Inspections, Reviews and Audits (IRAs): COCOs shall provide the Business Management Division information regarding upcoming IRAs and their results.

PART 2 - DEFINITIONS

2.1 Chief of the Contracting Office (COCO): the chiefs of the contracting divisions and ATEC contracting activity.

PART 3 - IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

3.104-5 Disclosure of Proprietary and Source Selection Information:

Pursuant to AFARS 3.104-5(d)(1)(A) – http://acqnet.sarda.army.mil/library/afar/afar3.htm#sub3_1045 - the following are authorized access to proprietary and source selection information when necessary for performance of their official duties:

- Center personnel,
- Voting members of the Board of Directors of the Center and their principal deputies,
- Legal staff supporting the Center, and
- Other personnel designated by the Contracting Officer, Chief of the Contracting Office, PARC, or HCA.

PART 5 - PUBLICIZING CONTRACT ACTIONS

5.303(a) Public Announcement: A sample format (30 Apr 99) is available and you may put it in PD2 as a template. AMCDCG-A memo dated 23 Feb 99, subject: Announcement of Contract Awards, advises that to preclude problems, make the award as late in the day as possible, but no earlier than 1600 ED or EDST Washington, DC time on the scheduled award date, unless there are reasons for awarding earlier.

5.4 Congressional Inquiries: AR 1-20, Congressional Inquiries, dated 13 Aug 90 is found at: http://books.army.mil/cgi-bin/bookmgr/BOOKS/R1_20/CONTENTS
 AMCR 1-16, dated 20 Jun 95: http://www.amc.army.mil/amc/ci/pubs/r1_16.pdf

A congressional inquiry received by the Director will be sent to the appropriate division/office for preparation of a draft response. When the inquiry is received directly at the division/office, a copy will be forwarded to the director immediately. Within 3 working days after receipt of the inquiry, the division/office will prepare a draft response, obtain legal concurrence, and forward both to the Director. The Director will sign the response.

Shorter or longer response times may be directed depending upon circumstances. Transmission of this information will use the fastest means. Normally, the inquiry will be completed within 5 working days of date of receipt to final dispatch. In accordance with AMCR 1-16, the Director's office will forward copies of the final response and initiating documents to AMC within 24 hours of completion.

5.404-1(a) Release of Long-Range Acquisition Estimates: Chiefs of Contracting Offices are hereby authorized to release estimates. This authority is not redelegable.

PART 6 - COMPETITION REQUIREMENTS -

6.303-1(e) Justification and Approval (J&A): Prior to the release of the solicitation, verbal approval shall be obtained from the approving authority on J&As under \$50,000,000 citing 10 U.S.C. 2304(c)(2) (FAR 6.302-2, Unusual & Compelling Urgency) as the authority for other than full and open competition. Submit written J&As for approval within ten (10) working days after award. However, if J&A approval level is at DA (over \$50M), discuss the J&A with the PARC prior to release of any solicitation. If the contract exceeding \$50M must be awarded prior to approval of the J&A, the J&A shall be submitted for approval within 30 working days after contract award.

6.303-2-90 Formats.

a. **J&A Format:** J&As above \$100K shall be prepared in the J&A format at AFARS 53.9005. When verbal approval is obtained from the approving authority, the name and title of the approving authority and date the verbal approval was granted shall be included in paragraph 2 of the J&A. See http://acqnet.sarda.army.mil/library/afar/afar53r.htm#sub53_9005.

b. **Justification Review Document** - See format for the JRD at: http://acqnet.sarda.army.mil/library/afar/afar53r.htm#sub53_9004.

Formats for the J&A and JRD have been furnished by the POC and are to be maintained in PD2 by the System Administrator (SA).

6.304 J&A Review and Approval:

- **\$100K-\$500K** **Review:** Legal
 Approval: Contracting Officer
- **\$500K-\$10M** **Review:** Legal
 Approval: Special Competition Advocate
- **\$10M-\$50M** **Review:** Legal, Special Competition Advocate, PARC
 Approval: HCA Designee*
- **Over \$50M** **Review:** Legal, PARC
 Approval: Assistant Secretary of the Army,
 Acquisition, Logistics and Technology [ASA(ALT)]

6.306 Guidance How to Prepare a J&A – Click here.

6.5 Special Competition Advocates (SCAs): HCA appoints SCAs and their alternates without authority to redelegate – see SCA List.

PART 7 - ACQUISITION PLANNING

7.0 Purchase Request (PR) Supporting Documentation.

7.103(h)(iv) Acquisition Plans (APs): Concurrences and approving officials will be as follows:

(AFARS 7.103(h)(iii): \$15M any FY or \$30M for all years including options)

- Above AFARS Level: PM, KO, Safety Office, Environmental Quality Office (other staff offices dependent upon SOW), SADBUD, Legal Office, SCA. Approval: PARC.

All reviews at the division/office level – no review will be performed when the plan is received at the PARC office unless a reviewer was not available. A cover memo forwarding the plan will request PARC approval, request a review be performed (i.e., legal, SCA)(if necessary), or will include a copy of any comments made during the COCO review process. (i.e., SADBUD, legal, SCA).

- Below AFARS Level: The Chief of the Contracting Office, as part of the team established by the planner, shall designate complex/costly actions which will require written plans either by threshold and/or on a case-by-case basis.

All reviews at the division/office level. When legal or SCA are not located in the contracting office, they will be forwarded to the Business Management Division for review and returned for approval. Approval: Chief of the Contracting Office.

7.104-90(a) Monthly Contract Status Report (previously the Significant Actions for Headquarters Review): The monthly report must be provided the Business Management Division via email by the 15th of each month - - negative reports are required. The report covers contracts (including options) that will be awarded in the 3-month period after the report is due and that will have a value of Over \$50M and any other significant actions. Subsequent reports will update any information that has changed from the previous report. See format.

7.104-90(c) Procurement Administration Leadtime (PALT): PALT was established by an AMC team during the PD2 planning stage and added to PD2. It is included at PALT Maintenance under the PALT Task. A "Word" copy has been prepared and is available for view - - click here.

7.104-90(d) Schedule for Submission of Purchase Requests: AFARS requires the establishment of cut-off dates for submission of PRs requiring action by end of the fiscal year (FY). The following cut-off dates are established for the Center. Exceptions to these dates shall be held to a minimum and requires approval by the Chief of the Contracting Office.

- Noncommercial Items Over \$100,000 – June 1
- Noncommercial Items Between \$2,500 and \$100,000 – July 1
- Commercial Items Between \$100,000 and \$5 Million – July 1
- Short-of-Award* Over \$2,500 – 1 July
- Commercial items Under \$100,000 – September 1

This schedule should be provided each office's technical community initially in February of each FY with periodical reminders.

*Short-of-Award: an acquisition action brought up to point-of-award pending receipt of funds.

PART 14 - SEALED BIDDING

14.4 Opening of Bids and Award of Contract

14.407-3(e)(1) Mistakes in Bids Before Award: Chief of the Contracting Office will forward the determination and any other documentation including the legal review to the PARC for signature.

14.407-4(d)(A) Mistakes After Award: Chief of the Contracting Officer will forward the determination and any other documentation including the legal review to the PARC for signature.

PART 15 - CONTRACTING BY NEGOTIATION

15.201(a) Meeting with Industry: Acquisition regulations encourage early exchanges with industry about planned procurements. The purpose is to improve the understanding of Government requirements and industry capabilities. Potential offerors then have an opportunity to judge whether or how they can satisfy the requirements, and it enhances our ability to obtain quality supplies and services at reasonable prices and increases efficiency in proposal preparation, evaluation, negotiation and contract award. Particular care must be taken to ensure that neither source selection or proprietary data is disclosed, including any potential offer's confidential business strategy. When using techniques involving one-on-one communications, any discussions will include a representative from the contracting office.

15.201(c) Exchanges with Industry Before Receipt of Proposals: The Advanced Planning Briefing for Industry (APBI) is the AMC method of communicating advance information to the private sector regarding future contracting opportunities. All MSCs and appropriate subordinate activities are responsible for conducting APBIs. Click here to view the AMC Schedule of APBIs – <http://www.amc.army.mil/amc/rda/rda-ap/aqnguidance.html>.

15.201(c)(6) Draft Request for Proposals (DRFPs): The instructions regarding the DRFP shall include the following: "If you wish to submit questions or comments of a sensitive nature, anonymously, a representative has been designated to be the recipient for such inquiries. He/She is _____. He/Her telephone number is _____ or datafax _____ or Email _____. Both the instructions and the DRFP will be posted to the Web. Government responses to comments received from industry will be released to all interested sources at the same time." The Chief of the Contracting Office will designate an appropriate individual.

15.303 Appointment of Source Selection Team(SST)/Evaluation Team(ET)/Proposal Evaluation Board (PEB): The Contracting Officer (or source selection authority, if not the contracting officer) shall appoint the members in writing.

Appointment of the Source Selection Authority: For formal source selection see AFARs and the AMC delegation of authority which delegates the authority to appoint the source selection authority to the commander/director at the commands/activities that are under AMC's HCA

15.406 Prenegotiation Objective Memorandum (POM) and Price Negotiation Memorandum (PNM):

a. In addition to the applicable elements in FAR/DFARS 15.406-1 or FAR/DFARS 15.406-3, the following shall be addressed:

See FAR at – <http://farsite.hill.af.mil/VFFARa.htm>

See DFARS at – <http://farsite.hill.af.mil/VFDFARa.htm>

POMs

- Competitive range determination
- Significant technical issues (deficiencies and major weaknesses)
- Small Business Subcontracting Plan issues
- Rationale for requesting cost/price data

PNMs

- Negotiated Small Business Subcontracting Plan goals
- Results of cost realism analysis
- Rationale for selection of awardee

The above may be attachments to the POM or PNM.

b. If the Contracting Officer determines that negotiations will not be necessary, a memorandum documenting the source selection decision, price reasonableness determination and other relevant information will be prepared and submitted prior to award to the award-approving official for approval in lieu of a PNM.

c. The AFARS POM/PNM format is generally applicable to large-dollar, complex actions. This format may be tailored for other actions so that only essential information required by paragraph a above is included - http://acqnet.sarda.army.mil/library/afar/afar53r.htm#sub53_9010.

d. POM/PNM/Award Approval Thresholds – see 1.602 above. The Chief of the Contracting Office may delegate award approval authority below \$10M to contracting officers. COs shall provide a list of contracting officers by name, award approval amount, and execution authority amount to the Business Management Division. As authorities and/or contracting officers change, updated lists shall also be provided.

For Grants, Cooperative Agreements and “Other Transactions” the threshold is over \$5M per year or \$25M for all years.

Research Triangle Park, Adelphi, and Natick Contracting Divisions have been delegated authority to perform research and development using grants, cooperative agreements and other transactions.

Research Triangle Park and Adelphi Contracting Divisions have been delegated authority to enter into transactions for prototype projects directly relevant to weapons or weapon systems to be acquired or developed by DoD.

15.490 Overage Contract Audit Reports: Contracting offices shall submit an Army Contract Audit Followup Report for each reportable audit to the Business Management Division by 5 April and 5 October of each year. Contracting offices shall submit with the Followup Report a written plan of action for each reportable audit which is 6-12 months old and unresolved, or over 12 months old whether resolved or unresolved at the end of the semiannual reporting period (31 March and 30 September). Negative reports are required.

See also DoDD 7640.2 (<http://web.deskbook.osd.mil/reflib/MDOD/034DD/034DDDOC.HTM>).

15.605 Unsolicited Proposals:

a. DA Pam 70-3, Army Acquisition Procedures, Part 10, Section D http://books.army.mil/cgi-bin/bookmgr/BOOKS/P70_3/10.Section-D and AMC Pam 70-8, Guide for Unsolicited Proposals – <http://www.amc.army.mil/amc/rda/70-8.html>, in addition to the FAR, provide guidance in this area.

b. Each contracting office shall designate a POC to coordinate the handling of UPs (AMC PAM 70-8).

PART 16 - TYPES OF CONTRACTS

16.404-2 Award Fee Determining Official (AFDO): Authority to appoint an AFDO is delegated to the Chiefs of the Contracting Offices.

16.601 Time and Materials (T&M) Contracts: For additional guidance based upon audits and inspections performed over the years, see enclosed.

16.505(b)(4) Task and Delivery Order Ombudsman: same person as special competition advocate.

PART 17 - SPECIAL CONTRACTING METHODS

17.204(e) Length of Contracts: The PARC delegates authority to the Chiefs of the Contracting Offices to approve length of contracts taking into consideration any applicable statutes which place additional restrictions on the length of contracts. This authority is not redelegable.

17.74 Undefinitized Contract Actions (UCA): Reviews of UCAs will be accomplished by legal and procurement analyst at the division level (if procurement analyst is not available, a contracting officer not involved in the acquisition). The Chief of the Contracting Office will forward a request for approval of to the PARC with a copy of all reviews attached. Contract specialists shall provide updated status on UCAs to the PARC as key events occur.

PART 25 - FOREIGN ACQUISITIONS

25.7002-2 Restrictions on Specialty Metals: The authority to make determinations regarding specialty metals ONLY for nondevelopmental items is delegated to contracting officers (AFARS 25.7002-2(a) - http://acqnet.sarda.army.mil/library/afar/afar25.htm#sub25_70022).

PART 32 - CONTRACT FINANCING

32.6 Processing Checks: Contractors shall be advised to make checks payable to the Defense Accounting Officer. Checks made payable to any other person or organization shall be endorsed for payment to the Defense Accounting Officer. Checks shall be forwarded to the contracting office's servicing DFAS office. Contracting offices should obtain DFAS collection guidance and appoint a collection agent – see the following:

DoD FMS 7000.14-R, Volume 5 – <http://www.dtic.mil/comptroller/fmr/05/index.html>
 DFAS-IN 37-1 – <http://www.asafm.army.mil/pubs/ar37-1/Contents.htm>
 DFAS 37-100-XX

32.10 Performance-Based Payments: Authority is delegated to Chiefs of Contracting Offices to approve performance-based payments.

AFARS 32.1006- http://acqnet.sarda.army.mil/library/afar/afar32.htm#sub32_1006

PART 33 - PROTESTS, DISPUTES AND APPEALS**33.1 Protests:**

a. The following shall be furnished the Business Management Division, as soon as practicable:

- Copy of the protest.
- Contracting Officer's statement of facts.
- Legal memorandum.
- Response to protester, if protest was to the KO.

b. Upon notification by the AMC Legal Office that a protest has been received by the GAO, the Contracting Officer shall (unless directed otherwise) furnish the requested report directly to HQ, AMC. A copy of the documents identified in paragraph a above shall be furnished to the Business Management Division at the time the report is forwarded to HQ, AMC.

c. A copy of the decision on the protest shall be furnished to the Business Management Division as soon as possible after receipt. A copy of the bid protest action report shall be furnished to the Business Management Division at the same time it is forwarded to the AMC legal office. See AFARS 33.190-1: http://acqnet.sarda.army.mil/library/afar/afar33r.htm#sub33_1901.

d. For useful information, see the AMC Command Counsel Site:
<http://www.amc.army.mil/amc/cc/protest.html>.

PART 36 CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

36.271 Cost-Plus-Fixed-Fee Contracts: Authority to use CPFF contracts for environmental work not classified as construction is delegated to Chiefs of the Contracting Offices. See: DFARS 216.306(c) – http://farsite.hill.af.mil/reghtml/dfars/dfars216.htm#P326_16435 AFARS 36.271(i) – http://acqnet.sarda.army.mil/library/afar/afar36r.htm#sub36_271

PART 37 - SERVICE CONTRACTING

37.102 Honorariums/Fees: Payment for speeches, lectures, and presentations are subject to the provisions of DFAS-IN Reg 37-1, para 20-179. By memo dated 5 Jan 95, the Deputy Secretary of Defense raised the threshold to \$500.00 where higher level approval is required.

37.2 Advisory and Assistance Services (CAAS): Each contracting office shall appoint a CAAS Contract POC and provide their names to the RMAC CAAS POC. See AMC-C 5-6 – <http://www.amc.army.mil/amc/rda/rda-ac/5-6final.pdf>.

37.204 Guidelines for Determining Availability of Personnel: PARC delegates this authority to the Chiefs of the Contracting Offices.

PART 42 - CONTRACT ADMINISTRATION**42.15 Past Performance Information Management System (PPIMS):**

- a. Administrators: See list of Points of Contact which provides the primary and alternate.
- b. Assessing Official: PM for systems/services providing technical/management support to the Program Office.

KO – all others

c. Resolution Authority: Level above assessing official:

PEO Managed – PEO or designee.

Non PEO – Chief of the Contracting Office

d. Access to PPIMS is password controlled. To apply, go to the Army Acquisition Website at <http://www.acqnet.sarda.army.mil> and click on the Past Performance button. Register under the first time user (production database) and contact either administrator for password approval.

PART 52 - SOLICITATION PROVISIONS AND CONTRACT CLAUSES

See the center Solicitation Preparation Manual (SPM).

PART 53 FORMS

APPENDIX TO THE SOP